

27-5184 ORIGINAL

No. \_\_\_\_\_

Supreme Court, U.S.  
FILED

JUN 02 2021

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Elizabeth Pastor — PETITIONER  
(Your Name)

vs.

Partnership for Children's Rights RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals - 2nd Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Elizabeth Pastor  
(Your Name)

6801-21st Avenue  
(Address)

Brooklyn, NY 11204  
(City, State, Zip Code)

(347) 578-0323  
(Phone Number)

**QUESTION(S) PRESENTED**

- 1) Why did the District Court overlook the affidavit attached that showed proof that Respondent had more than 15 employees for the purpose of Title VII?
2. Why did the District Court also overlooked the contract it had with ADP that instituted more employees?
3. Why did the Respondent pay other employees on a separate corporate account and those employees were not listed on their payroll records that was submitted to the court?
4. Why did Respondent claim to have laid me off stating they were experiencing a hard ship after their yearly financial statement for the relevant years did not indicate they were experiencing a hardship?
5. Rule 60(b)(3) applied to Respondent for Fraud and it was not accepted by the court and for what reason?

## **LIST OF PARTIES**

[V] All parties appear in the caption of the case on the cover page.

[ ] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## **RELATED CASES**

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SUPREME COURT OF THE UNITED STATES

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Elizabeth Pastor

CASE NO. USCA #20-2466

Petitioner - Pro-Se

vs.

**PETITION FOR WRIT OF  
CERTIORARI**

Partner for Children's Rights

Respondent

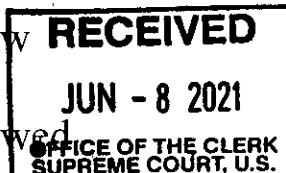
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This is an appeal regarding the Petition for the Re-hearing that was denied on May 18, 2021, from the United States Court of Appeals for the Second Circuit. (Judge: Amon) (Judge: Bloom).

Respondent, Elizabeth Pastor, Pro Se Litigant files for a Writ of Certiorari seeking to be re-heard and respectfully asking for consideration on this matter.

The District Court erred in view of the facts of law by overlooking and not considering the strong proof (Alvin's Sworn Affidavit) that was provided with evidence of Fraud when Respondent violated the law

under Title VII and ADA. The courts denied my petition and allowed



the respondent to get away with an unlawful practice by committing Fraud on its payroll records that appeared as if it had less than 15 employees for the purpose of Title VII. The attached (APPENDIX A) is proof of the bookkeeper's sworn affidavit that clearly states that Partnership for Children's Rights (PFCR) had more than 15 employees under the radar. These other employees/volunteers/consultants were compensated from their corporate account and not listed on their payroll records that was submitted to the court. PFCR obviously knew how to protect themselves from being sued under Title VII.

Alvin, the accountant, was employed for PFCR from an employment agency and was aware of the additional employees. He signed the attached affidavit under oath. This affidavit was also submitted to the State Court, District courts as well as in the Petition to enlarge the files in the State of NY Appellate Division Court. In the District court they improperly granted the Motion to vacate Summary Judgment. The Relief should have been sought then. This was clear to see and not ambiguous. The courts refused to see and kept me from obtaining

information that was relevant such as tax record Forms NYS-45-ATT where the number of employees in this tax section would be listed and where names of employees existed. These documents were very important in this case to prove there were more employees for the purpose of Title VII. Respondent concealed these documents and had other employees listed as opposed to only those on their payroll records. And there were no questions of law asked by the lower court. This information was needed to pursue my rights in a legitimate discrimination case. The Respondent discriminated by favoring and preferring younger white female employees to work for their organization and educated them in NYU since they had a stipend with NYU as well and only white females were favored. When confronting respondent about their preference and asked why I was denied for a position that was available twice throughout the relevant years when I was more than qualified for the position, it resulted in retaliation and the loss of my employment after 3 ½ years. I was the only Hispanic employee fired and not considered for the position available. They retaliated and the respondent claimed to have experience a hardship

when the hardship was in pretense to eliminate my position. I checked their financial yearly reports that were public and saw they were in a good standing position. The affidavit is proof as well as their yearly financial reports. These documents were always submitted way before we got to this point and lead to unnecessary motions and court proceedings.

From the beginning stages of this case, I always mentioned that respondent had more than 15 employees for the purpose of Title VII and that they committed fraud. PFCR avoided mentioning other employees that were not on payroll nor showed evidence how other employees volunteers were compensated.

PFCR also had a co-employment relationship with another organization (**see APPENDIX 3**) In addition to the affidavit, PFCR had a co-employment relationship with ADP and the court failed to recognize that this constituted more employees. ADP with Partnership jointly hired me and stipulated the terms of my employment. The District court should have granted/considered the ADP Contract with Partnership that existed.

ADP records and Partnerships records should have the listing of all employees and those that were assigned to work for Partnership. Again, the lower courts overlooked these documents that mattered the most.

This was unfair and it violated my rights and it was injustice. The courts allowed the Respondent to get away with not presenting more records when I asked for more records to prove my case and the respondent claim not to have these records. The District court failed to investigate/apply the law and the facts upon making a decision. The District Court accepted only the incomplete payroll records as true and with no argument or hearing. They turned their heads on the proof that I presented facts. They should have considered all the relevant documents I submitted and circumstances surrounding the specifics before the court in order ensured that justice be done. The Respondent are attorneys and are knowledgeable of the law and know how to protect themselves under the provisions of Title VII by keeping staff at a minimal.

## Statement of the Case

On or about July 8, 2009, I, Elizabeth Pastor, Pro-Se Litigant filed a charge of discrimination Retaliation, Disability, National Origin, and Age discrimination with the EEOC. The EEOC determined that Partnership was covered by Title VII of the Civil Rights Act because it did not employ more than 15 employees for each working day in each of the twenty or more calendar weeks in the current year.

Partnership for Children's Rights (PFCR) did have more than 15 employees in the relevant years and calendar weeks.

At the time, the accountant named Alvin Lipton, stated in the attached affidavit that the respondent had more than 15 employees than what respondent listed on its payroll because they compensated other employees from their corporate account vs. ADP Payroll. Those employees were never listed to meet the threshold for the purpose of Title VII. PFCR records were not accurate in the sense that they falsified their records. Apparently, there was a miscount of the number of employees employed by PFCR. The District Judge went by partial of

their payroll and overlooked the documents I submitted which was the affidavit and the co-employment contract that they had with ADP that also constituted more employees.

Their Financial yearly records indicated more employee expense in the relevant years and that too was off and did not match with their payroll expense amount nor the excuse to have experienced a hardship when they decided to fire me and retaliate. The District Court Judge only went by what respondent said. There was no substantial amount of documentary evidence submitted from the other side to demonstrate the number of employees that were really employed in the relevant years. Especially when I was denied full discovery to be able to obtain more the documents needed. The court decide to vacate the judgment right away and it denied my petition with extraordinarily little observation. They focused only on respondent's documents.

Looking back, even if they decided not to dig further, the affidavit given to me from the accountant says a lot.

## **Reason for Granting the Writ**

This petition should be considered for these reasons mentioned above and such names of the employees who constitute more employees for the purpose of Title VII should have been revealed on its payroll but weren't because they were listed on the corporate account. The Affidavit was mentioned numerous times and throughout the courts process and that is considered Fraud. It was obvious and that the affidavit was strong evidence that these documents fell into the Court Rules of 60b (1) and (3). The Motion on Rule 60(b) regarding Fraud was timely, and the court said it was wrong and did not consider it and for what reason. They committed Fraud and the facts were there for the courts to read. The court should be corrected on an error of facts and the denied decision of my petition should be reversed. The procedures of rules seem to get in the way, though my point was clear and this could have been prevented if the correct law would have been applied.

This should be addressed to the District Court that rendered the summary judgment in which injustice was done. This has been my

argument all along aside the fact that this case has merit when respondent discriminated by favoring younger white female employees instead.

When I returned from short term disability and in pretense, respondent claimed to have had a hardship in the organization. I suspected that the due to the confrontation before leaving out on short term disability, the complaint about white employees being treated favorably, would cost me my job.

I immediately reviewed their yearly financial records that were public records, and each relevant year they were in an exceptionally good standard. Their salaries and Fringe benefits paid to or given to everyone had increased each year and there was no proof of hardship.

The courts focused on procedural matters and not the facts that were presented. These confusing procedures and confusing Rules became hurdles that were standing in my way but were not resolved on previous motions with the facts presented.

I suffered a great deal, and it took me a long time to try to handle this case on my own due to MDD -Major Depression Disorder in adults that worsened as time went by. The stress and anxiety and depression caused confusion, a lot of anxiety, difficulty concentrating and problems that disrupted my daily activities due to being fired at no fault of my own. The depression and illness left me financially poor which was very hard for me to pay my bills, walk, go to work and accept the depression. For the second time on record, I was able to speak and write about the depression. I was in a deep denial about depression with family and friends. The years of suffering and depression caused mental anguish. I now have permanent nerve damage on my left leg and foot after surgery when I was out on disability from PFCR. I was unable to afford safety and health for myself and lost my medical insurance to where I was unable to continue physical therapy after my surgery. Anxiety kicked in and I also have high blood pressure that will consist of taking medication for life. The depression kept me from enjoying life, visiting friends and unable to adjust to society let alone track time for court rules and remembering what was what.

My bills fell behind to where I received a court order from housing court for nonpayment of rent and my credit score significantly dropped.

Basically, the one having the hardship was me. The confusion was like living in a fog and representing myself was not easy. I cancelled many medical visits worrying about paying expensive doctor bills and the thought made me more depressed where I was unable to get out of bed.

One year or five years was meaningless without counsel to represent me truthfully and in detail. I was denied counsel from the same courts and was unable to afford counsel especially after losing my job. I waited to see if there were any changes or amended laws and only recently learned about the new law passed last year where Human Rights Laws consist of one employee in an organization would be necessary to sue under a legitimate discrimination claim.

Getting the incorrect information from the courts did not help either and filing from court to court. The State Supreme Court, then District Court, then the United States court, back to the Appeals all over again and back

to the same court again, was the extraordinary circumstances that happened in this case.

### **CONCLUSION**

Based on the foregoing, Petitioner respectfully and in good faith request the court to reverse and grant such relief as the court deems just and proper. The Partnership for Children's Rights was an employer within the meaning of Title VII, ADA, and ADEA. After reviewing everything, this case has merit and the signed affidavit by the accountant stated clearly that PFCR employed more than 15 employees and had more employees under a different corporate account as well as having a co-employment contract with ADP that proves there were more employees than they said, and Partnership is subject to liability under Title VII.

The decision should be reversed because there were errors of facts, and the evidence was never questioned nor applied to this case. The courts should help those who take an inordinate amount of time to raise their claims. The District Court deprived me from my rights, erred on the

evidence and I did not have the opportunity to really be heard. The facts of this case is that Partnership for Children's Rights committed the Act of Fraud, concealed records and had it been investigated, the proper legal decision would have been decided earlier in this case, I would have never gone thru all these channels, unnecessary complications when the facts are written in black and white. This makes the respondent liable and dishonest. Therefore, this Court should grant my Petition of Writ of Certiorari.

Dated: July 13 , 2021      Respectfully Submitted,

Elizabeth Pastor

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